

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 78

Introduced by Assembly Member Mendoza

January 3, 2011

~~An act to submit an advisory question to the voters relating to immigration, calling an election, to take effect immediately. An act to add Section 43.2 to the Civil Code, relating to immigrants' rights.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 78, as amended, Mendoza. ~~Immigration: advisory election. Immigrants' rights.~~

Existing law provides that every person has certain rights subject to the qualifications and restrictions provided by law.

This bill would provide that a person without legal authority to reside in the United States but who has continuously resided in California since January 1, 2007, has the same rights that are afforded to any other legal permanent resident in this state pursuant to the California Constitution and any other state or local law or regulation, if the person is in compliance with certain requirements. The bill would require the Governor to seek certain federal waivers in that regard.

~~This bill would, notwithstanding existing provisions of law relating to elections, call an election for the purpose of placing before the voters of the state an advisory question asking whether the President and the Congress of the United States shall create a pathway to citizenship for undocumented immigrants who have worked in this country for at least 5 years, have no felony convictions, have learned to speak English, and have paid all taxes for which they are responsible. The bill would require the Secretary of State to communicate the results of this election to the~~

~~President and consolidate this election with the statewide direct primary election of June 5, 2012. By increasing the duties of local elections officials for an election on the advisory question, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~This bill would declare that it is to take effect immediately as an act calling for an election.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~*no*.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Immigrants are a vibrant, productive, and vital part of
4 California's growing economy, diverse cultural fabric, and
5 changing demographics.

6 (b) Immigrants and their children comprise nearly one-half of
7 California's population and live and work in all 58 counties, most
8 notably in the San Diego, central valley, Los Angeles, and greater
9 San Francisco Bay regions of the state.

10 (c) Immigrants fuel California's economy through their labor
11 and entrepreneurship, comprising approximately one-third of
12 California's labor force and figuring prominently in key economic
13 sectors such as agriculture, construction, manufacturing, and
14 services.

15 (d) A national debate is raging across the United States focused
16 on how to fix our broken immigration system and this debate is
17 tearing at the very core of our founding values.

18 (e) This national discussion demands an intelligent,
19 comprehensive, and balanced approach to immigration
20 reform—one that recognizes that Americans want neither open
21 borders, nor closed borders, but that they want the President and
22 the Congress of the United States to work together to enact

1 legislation that rewards work, reunites families, restores the rule
2 of law, reinforces our nation's security, respects the rights of United
3 States-born and immigrant workers, and redeems the "American
4 Dream."

5 (f) A bipartisan, comprehensive workable immigration reform
6 package must be based on respect for human rights; a path towards
7 permanent residency and citizenship; enforcement of border
8 policies, protecting the wages and working conditions of all
9 workers, whether United States-born or immigrant workers;
10 reunification of families; and the promotion of citizenship and
11 civic participation.

12 *SEC. 2. Section 43.2 is added to the Civil Code, to read:*

13 *43.2. (a) A person without legal authority to reside in the*
14 *United States but who has continuously resided in California since*
15 *January 1, 2007, shall have the same rights that are afforded to*
16 *any other legal permanent resident in this state pursuant to the*
17 *California Constitution and any other state or local law or*
18 *regulation, provided that the person is in compliance with all of*
19 *the following:*

20 *(1) Has not been convicted of a felony, or more than three*
21 *misdemeanors.*

22 *(2) Is able to establish proof of residency through utility bills,*
23 *employment records, tax records, or other equivalent*
24 *documentation.*

25 *(3) Is able to demonstrate proficiency in English, or is enrolled*
26 *in, or has applied to enroll in, an English as a second language*
27 *class.*

28 *(4) Prospectively files and pays state income taxes in a manner*
29 *to be established by state law and federal income taxes in*
30 *cooperation with federal income tax authorities in a manner to be*
31 *determined, whereby the taxes are paid as if the person holds a*
32 *social security number.*

33 *(b) With respect to any rights that may conflict with federal law,*
34 *the Governor shall request waivers from the President of the United*
35 *States and other appropriate federal authorities to exempt*
36 *California residents and businesses from the requirements of those*
37 *federal laws as they relate to the persons governed by subdivision*
38 *(a).*

39 ~~SEC. 2. (a) Notwithstanding Section 9040 or 12000 of the~~
40 ~~Elections Code or any other provision of law, an election is hereby~~

1 called for the purpose of placing before the voters of this state the
2 following advisory question:

3 ~~Shall the President and the Congress of the United States of~~
4 ~~America create a pathway to citizenship for undocumented~~
5 ~~immigrants who have worked in the United States for at least five~~
6 ~~years, have no felony convictions, have learned to speak English,~~
7 ~~and have paid all taxes for which they are responsible?~~

8 ~~(b) Upon certification of the election, the Secretary of State~~
9 ~~shall communicate to President Barack Obama the results of the~~
10 ~~election asking the question set forth in subdivision (a).~~

11 ~~(c) The provisions of the Elections Code that apply to the~~
12 ~~preparation of ballot measures and ballot materials at a statewide~~
13 ~~election shall apply to the measure submitted pursuant to this~~
14 ~~section.~~

15 ~~(d) Notwithstanding Section 9040 of the Elections Code, the~~
16 ~~Secretary of State shall consolidate the election provided for in~~
17 ~~subdivision (a) with the statewide direct primary election to be~~
18 ~~held on June 5, 2012.~~

19 ~~SEC. 3.— If the Commission on State Mandates determines that~~
20 ~~this act contains costs mandated by the state, reimbursement to~~
21 ~~local agencies and school districts for those costs shall be made~~
22 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
23 ~~4 of Title 2 of the Government Code.~~

24 ~~SEC. 4.— This act calls an election within the meaning of Article~~
25 ~~IV of the Constitution and shall go into immediate effect.~~